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actions which shall be taken to correct the noncompliance and the time, not to exceed 30 days, within which corrective action shall be started.

(e) Failure of an operator to take necessary actions on a notice of non-compliance, may constitute justification for requiring the submission of a plan of operations under §3809.1-5 of this title, and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under §3809.1-3 of this title.

[45 FR 78909, Nov. 26, 1980; 45 FR 82934, Dec. 17, 1980]

§ 3809.3-3 Access.

(a) An operator is entitled to access to his operations consistent with provisions of the mining laws.

(b) Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3809.3-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

§ 3809.3-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and State laws and regulations.

§ 3809.3-6 Inspection.

The authorized officer may periodically inspect operations to determine if

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the operator is complying with these regulations. The operator shall permit the authorized officer access for this purpose.

§ 3809.3-7 Periods of non-operation.

All operators shall maintain the site, structures and other facilities of the operations in a safe and clean condition during any non-operating periods. All operators may be required, after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment and other facilities and reclaim the site of operations, unless he/she receives permission, in writing, from the authorized officer to do otherwise.

§ 3809.4 Appeals.

(a) Any operator adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal to the State Director, and thereafter to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title, if the State Director's decision is adverse to the appellant.

(b) No appeal shall be considered unless it is filed, in writing, in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of receipt of the decision. A decision of the authorized officer from which an appeal is taken to the State Director shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

(c) The appeal to the State Director shall contain:

(1) The name and mailing address of the appellant.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to subpart 3833 of this title which are subject to the appeal.

(3) A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

(d) The State Director shall promptly render a decision on the appeal. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the appellant

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by certified mail, return receipt requested.

(e) The decision of the State Director, when adverse to the appellant, may be appealed to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title.

(f) Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedures in part 4 of this title. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

(g) Neither the decision of the authorized officer nor the State Director shall be construed as final agency action for the purpose of judicial review of that decision.

[45 FR 78909, Nov. 26, 1980, as amended at 48 FR 8816, Mar. 2, 1983]

§ 3809.5 Public availability of information.

(a) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination. Other information and data submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR part 2.

§ 3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert Conservation Area.

In accordance with section 601(f) of the Federal Land Policy and Management Act of October 21, 1976, all patents issued on mining claims located within the boundaries of the California Desert Conservation Area after the enactment of the Federal Land Policy and Management Act shall be subject to the regulations in this part, including the continuation of a plan of operations and of bonding with respect to the land covered by the patent.

PART 3810—LANDS AND MINERALS SUBJECT TO LOCATION

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